

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FAIRPLAY ELECTRIC CARS, LLC,)	
)	
)	C. A. NO. 1:06-cv-00060-JJF
Plaintiff,)	
)	
v.)	
)	
TEXTRON INNOVATIONS INC.,)	
)	
)	
)	
)	
Defendant.)	

**DEFENDANT TEXTRON INNOVATIONS INC.'S NOTICE OF MOTION TO DISMISS,
TRANSFER OR STAY SECOND-FILED DECLARATORY JUDGMENT ACTION IN
RESPONSE TO AMENDED COMPLAINT**

In response to the complaint in this action, Defendant Textron Innovations Inc. ("TII") timely filed a motion to dismiss, transfer, or stay this second-filed declaratory judgment action pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction, the first-filed doctrine, and 28 U.S.C. § 1404(a). That motion is now fully briefed and pending before the Court for resolution. During the period this motion has been pending, plaintiff Fairplay Electric Cars, LLC ("Fairplay") filed an amended complaint that omitted an original defendant, but with respect to TII the amended complaint was identical to the original complaint.

Accordingly, in response to the amended complaint, and in order to avoid burdening the Court with redundant briefing, TII hereby provides notice pursuant to Rule 12(b) that it relies upon and reasserts all of the grounds set forth in its previously-filed motion to dismiss, transfer,

or stay the action. TII incorporates by reference all of the arguments it presented in support of that motion, and TII accordingly asks that the Court dismiss, transfer, or stay this action.

Respectfully submitted,

TEXTRON INNOVATIONS INC.

By  _____

Dated: April 28, 2006

Edmond D. Johnson (#2257)
Peter B. Ladig (#3513)
THE BAYARD FIRM
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Wilmington, DE 19801

OF COUNSEL:

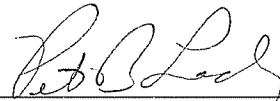
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Attorneys for Defendant
Textron Innovations Inc.

CERTIFICATE OF SERVICE

I, Peter B. Ladig, hereby certify that on April 28, 2006 I electronically filed the foregoing Defendant Textron Innovations, Inc.'s Notice of Motion to Dismiss, Transfer or Stay Second-Filed Declaratory Judgment Action in Response to Amended Complaint with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

Richard L. Horwitz, Esquire
David E. Moore, Esquire
Potter Anderson & Corroon LLP
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19899-0951

A handwritten signature in cursive script, appearing to read "Peter B. Ladig", is written over a horizontal line.

Peter B. Ladig (#3513)